

OFFICIAL COPY

Fresno, California November 30, 2004

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Jerry Duncan	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Brad Castillo	Council President

Dan Hobbs, City Manager  
Andy Souza, Assistant City Manager  
Hilda Cantu Montoy, City Attorney  
Becky Klisch, City Clerk  
Yolanda Salazar, Assistant City Clerk

City Manager Hobbs gave the invocation and President Castillo led the Pledge of Allegiance.

RECOGNITION OF THE PARKING SERVICES PROGRAM AWARD FOR "TOP PARKING PROGRAM OF THE YEAR"  
PROCLAMATION OF CANDLELIGHT CHRISTMAS ON HUNTINGTON BOULEVARD DAYS - COUNCILMEMBER DAGES  
PRESENTATION OF THE NATIONAL SAFE PLACE AWARD TO FRESNO AREA EXPRESS - COUNCILMEMBER STERLING  
POLICE BOMB SQUAD RODEO AWARD

The above recognition was made and the proclamation and awards were read and presented.

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**APPROVE MINUTES OF NOVEMBER 9, 2004:**

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the minutes of November 9, 2004, approved as submitted

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**COUNCIL MEMBER REPORTS AND COMMENTS:**

COMMENDATION TO FAX ON THE CHRISTMAS DECORATED BUS - COUNCILMEMBER DUNCAN

Commendation made.

REQUEST FOR UPDATE ON TREE ORDINANCE RELATIVE TO REMOVAL AND REPLACEMENT OF TREES - ACTING PRESIDENT PEREA

Request made with City Manager Hobbs stating staff would provide a report.

CONCERN WITH LOSS OF PARKING REVENUES DUE TO RECENT COUNCIL ACTION ALLOWING FREE PARKING FOR LOW EMISSION VEHICLES (LEV's) - COUNCILMEMBER CALHOUN

Councilmember Calhoun spoke to the issue and advised he would be scheduling the matter on a future agenda to discuss the impact on the city.

REQUEST CITY MANAGER TO PLACE ON THE M-CAR AND STAFF PROVIDE A REPORT TO COUNCIL ON THE INTERNAL AUDIT RELATIVE TO THE TRANSFER OF MEDIAN ISLAND MAINTENANCE AND THE TWO CONCLUSIONS (NOS. 6 & 7 OF THE AUDIT)

Request made.

COMMENDATION TO CITIZEN STEVE LAPARI, TOWER DISTRICT PROPERTY OWNER, ON HIS RESTAURANT AND PARKING LOT PROJECT, AND ALL OTHER INVOLVED CITIZENS AND BUSINESSES ON MONTHLY TOWER DISTRICT CLEAN UP WORK - COUNCILMEMBER BOYAJIAN

Commendation made.

MAKING CITY HALL AND COMMUNITY CENTERS A "SAFE PLACE" - COUNCILMEMBER STERLING

Councilmember Sterling stated the yellow "Safe Place" signs/placards needed to be displayed to be recognized as a safe place and questioned if staff was working on that, with City Manager Hobbs stating he would look into the matter.

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#### **APPROVE AGENDA:**

REQUEST BY PLANNING & DEVELOPMENT DIRECTOR FOR COUNCIL TO SCHEDULE A MEETING ON EITHER DECEMBER 21<sup>ST</sup> OR DECEMBER 28<sup>TH</sup> FOR DEVELOPMENT ISSUES

P & D Director Yovino advised there were three projects that needed to be scheduled during the holiday season, requested Council considering meeting on either December 21<sup>st</sup> or 28<sup>th</sup> (which are currently cancelled) to accommodate the department, advised his preference was December 28<sup>th</sup>, and advised of the projects at issue. Brief discussion ensued on possible meeting days other than Tuesdays and amount of time needed for the meeting. By consensus it was determined Council would meet on December 21<sup>st</sup> for the Running Horse project if it is ready for action that date.

**(10:15 A.M.)** CONTINUED HEARING ON COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 77, FINAL TRACT MAP NO. 5370 AND RELATED RESOLUTIONS AND ORDINANCE BILL

City Clerk Klisch clarified this was a re-noticed hearing and not a continued hearing. So noted.

**(1-I)** APPROVE AMENDMENT TO THE CITY OF FRESNO NON-DISCRIMINATION POLICY

Removed from the agenda at the request of public works staff.

**(3-E)** REQUEST FOR STATUS REPORT FROM PUBLIC WORKS DEPARTMENT ON DISTRICT 7 PAVING PROJECT ENCOMPASSING THE AREA BETWEEN BLACKSTONE/SHAW/BARSTOW/MAROA AVENUES - ACTING PRESIDENT PEREA

Removed from the agenda at the direction of Acting President Perea who stated there was a memo "floating around" that addressed his concerns and advised he scheduled the item because funds were allocated in 2002 and the project was still not completed.

**(3-A)** RESOLUTION - LIMITING EXPANSION OF THE CHAFFEE ZOO WITHIN ROEDING PARK - COUNCILMEMBER DAGES

**(2 - 0)** Removed from the agenda at the direction of Councilmember Dages. Upon question of the reason therefor Councilmember Dages stated after discussing the matter with the Zoo Society everyone felt it would be best to delay the matter until after the Zoo Board was appointed.

**144-166****11/30/04**

On motion of Councilmember Duncan, seconded by Acting President Perea, duly carried, RESOLVED, the **AGENDA** hereby approved, as amended, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
 Noes : None  
 Absent : None

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**ADOPT CONSENT CALENDAR:**

Barbara Hunt, 2475 S. Walnut, spoke in general to, or expressed concerns with, Items 1-D, 1-E, 1-F, 1-I, 1-P and 1-S.

Gloria Torrez stated consent items needed to be discussed/acted upon separately; expressed concern with Item 1-F and the public not having a voice; questioned if Item 1-H was legal; and spoke in opposition to 1-S and questioned who would profit the sale of the homes.

Cary Catalano spoke to Item 1-K and requested it be pulled and rescheduled in one week for a public hearing to obtain input from non-profit organizations on the grant writer program and elaborated.

Councilmembers Duncan, Perea and Boyajian registered their "NO" vote on Item 1-Z, with Councilmember Boyajian stating his reason was because he was upset with the fact that redevelopment areas/zones were not being treated differently than regular zones.

Councilmember Calhoun pulled Item 1-L, Acting President Perea pulled Item 1-K, Councilmember Dages pulled Items 1-R, 1-V and 1-Y, Councilmember Boyajian pulled Item 1-W, and Councilmember Sterling pulled Item 1-Z from the consent calendar for discussion at 2:00 p.m.

**(1-A) RESOLUTION NO. 2004-425 - INTENT TO ANNEX TRACT NO. 5247 TO COMMUNITY FACILITIES DISTRICT NO. 2, AND SETTING THE PUBLIC HEARING FOR DECEMBER 14, 2004**

**(1-B) RESOLUTION NO. 2004-426 - INTENT TO ANNEX PARCEL MAP NO. 2003-24 TO COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 85, AND SETTING THE PUBLIC HEARING FOR DECEMBER 14, 2004**

**(1-C) APPROVE THE ACQUISITION OF A STREET EASEMENT FROM APN 328-150-36 OWNED BY DARRYL AND JUDY ZUBER AT THE APPRAISED VALUE OF \$350.00, AND AUTHORIZE THE INTERIM PUBLIC WORKS DIRECTOR TO SIGN THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY, OTHER RELATED DOCUMENTS AS NECESSARY, AND ACCEPT THE DEED OF EASEMENT FOR PUBLIC STREET PURPOSES**

**(1-D) APPROVE THE SALE OF A LOT LOCATED AT 2971 S. MARTIN LUTHER KING BOULEVARD TO A PRIVATE PARTY FOR THE PRICE OF \$17,500, AND AUTHORIZE THE INTERIM PUBLIC WORKS DIRECTOR TO SIGN THE AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY, ESCROW INSTRUCTIONS, AND OTHER TRANSACTION DOCUMENTS AS NEEDED, AND SIGN THE GRANT DEED ON BEHALF OF THE CITY**

**(1-E) RESOLUTION NO. 2004-427 - AUTHORIZING THE DIRECTOR OF PUBLIC WORKS TO EXECUTE A PUBLIC WORKS MULTI-AID AGREEMENT WITH FRESNO COUNTY**

**(1-F) RESOLUTION NO. 2004-428 - AUTHORIZING THE INTERIM PUBLIC WORKS DIRECTOR OR DESIGNEE TO FILE TWO APPLICATIONS WITH THE STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION, FOR GRANT FUNDING IN THE AMOUNT OF \$300,000 TO BE USED TO STUDY FREEWAY INTERCHANGES IN THE FRESNO/MADERA METROPOLITAN AREA, AND \$300,000 TO CONDUCT A DOWNTOWN FRESNO CIRCULATION STUDY**

**(1-G) APPROVE AN AGREEMENT WITH PONDEROSA TELEPHONE COMPANY (PTC) TO ALLOW FOR THE INSTALLATION OF A HIGH SPEED FIBER OPTIC CABLE LINE WITHIN CITY OF FRESNO RIGHT-OF-WAY, AND AUTHORIZE THE INTERIM DIRECTOR OF PUBLIC WORKS TO EXECUTE ALL AGREEMENTS AND FILE WITH THE CITY CLERK'S OFFICE**

144-167

11/30/04

**(1-H) RESOLUTION NO. 2004-429** - TRANSFERRING \$70,000 IN PROPOSITION 111 FUNDS FROM THE HERNDON CANAL CAPITAL PROJECT TO THE E-GOVERNMENT CAPITAL PROJECTS FOR USE IN INSTALLING HIGH SPEED FIBER OPTIC CABLE IN THE CITY OF FRESNO

**(1-J) RESOLUTION NO. 2004-430** - 423<sup>RD</sup> AMENDMENT TO MFS RES. 80-420 REVISING CABIN RENTAL FEES AT CAMP FRESNO TO REFLECT RECOMMENDED FEE INCREASES

**(1-M)** AWARD REQUIREMENTS CONTRACTS TO S & A FARMS OF FRESNO, CENTAL VALLEY MORTGAGE SERVICES OF PORTERVILLE, SEQUOIA WESTERN CONSTRUCTION OF FRESNO, AND BBL CLEANUP SERVICES OF FRESNO FOR THE COMBINED AMOUNT OF \$550,000 FOR WEED ABATEMENT AND/OR PUBLIC NUISANCE ABATEMENT FOR A PERIOD OF ONE YEAR WITH TWO ONE-YEAR EXTENSIONS

**(1-N)** AWARD A CONTRACT TO KAWEAH CONSTRUCTION COMPANY OF FRESNO IN THE AMOUNT OF \$211,553 FOR HEAD WORKS CRANE INSTALLATION AT THE FRESNO-CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY (RWRf)

**(1-O)** APPROVE AN AMENDMENT TO THE AGREEMENT WITH HANSEN INFORMATION TECHNOLOGIES, INC., TO INCREASE SOFTWARE SEAT LICENSING AND PROVIDE SOFTWARE INTEGRATION SERVICES, AND AUTHORIZE THE PUBLIC UTILITIES DIRECTOR TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY

**(1-P)** APPROVE AMENDMENT NO. 2 TO THE AGREEMENT WITH BROWN-BUNTIN ASSOCIATES, INC., FOR CONSULTANT SERVICES FOR THE FRESNO YOSEMITE INTERNATIONAL AIRPORT SMART PROGRAM IN AN AMOUNT NOT TO EXCEED \$12,500, AND AUTHORIZE THE DIRECTOR OF AVIATION TO EXECUTE THE AMENDMENT

**(1-Q)** APPROVE AN AGREEMENT WITH CARTER BURGESS, INC., IN THE AMOUNT OF \$496,812 TO PROVIDE PROFESSIONAL SERVICES FOR DESIGN OF AIRPORT IMPROVEMENTS AT THE FRESNO YOSEMITE INTERNATIONAL AIRPORT, SUBJECT TO FINAL APPROVAL BY THE FAA, AND AUTHORIZE THE DIRECTOR OF AVIATION TO SIGN THE AGREEMENT ON BEHALF OF THE CITY

**(1-S)** APPROVE A HOME INVESTMENTS PARTNERSHIP (HOME) PROGRAM AGREEMENT WITH ALVIS PROJECTS, INC. FOR \$300,000 FOR THE CONSTRUCTION OF SIX SINGLE-FAMILY AFFORDABLE HOMES AS PART OF THE CITY'S GREEN BUILDING DEMONSTRATION PROJECT

**(1-T)** APPROVE APPOINTMENT OF JIM TATE HILL TO THE EDISON MERGER II PROJECT AREA PLANNING ADVISORY COMMITTEE - COUNCILMEMBER STERLING

**(1-U) RESOLUTION NO. 2004-431** - APPROVE A CONTRIBUTION AGREEMENT WITH THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) IN THE AMOUNT OF \$750,000 FOR CONSTRUCTION OF CONDUIT AND FIBER OPTIC CABLE ON STATE ROUTE 99 FROM GRANTLAND AVENUE TO EL DORADO STREET AS PART OF THE CITY'S TRAFFIC MANAGEMENT SYSTEM, AND AUTHORIZE THE INTERIM PUBIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE AGREEMENT

**1. RESOLUTION NO. 2004-432** - 46<sup>TH</sup> AMENDMENT TO AAR 2004-209 APPROPRIATING THE \$750,000 FOR THE PROJECT

**(1-X)** INTRODUCTION OF **BILL NO. B-125** ADDING SUBSECTION (d) TO SECTION 13-1200.800 TO THE FRESNO MUNICIPAL CODE RELATING TO POSTING PLACARDS ON DANGEROUS BUILDINGS FOR FIREFIGHTER SAFETY

On motion of Councilmember Sterling, seconded by Acting President Perea, duly carried, **RESOLVED**, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

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**(9:15 A.M. "B") PUBLIC COMMENT PERIOD - UNSCHEDULED COMMUNICATION:****144-168****11/30/04**

APPEARANCE BY DIANE SCOTT OPPOSING MEDICAL MARIJUANA RESTRICTIONS

APPEARANCE BY DUSTIN (LAST NAME INAUDIBLE), SPOKESPERSON FOR THE MERCED PATIENTS GROUP, A MEDICAL MARIJUANA ADVOCACY GROUP AND A 501( c)(16) ASSOCIATION, IN SUPPORT OF PROPOSITION 215 AND HAVING A SAFE AND AFFORDABLE PLAN FOR ACCESSING MEDICAL MARIJUANA

APPEARANCE BY BARBARA HUNT REGARDING REDEVELOPMENT AGENCY BY-LAWS AND MEDICAL MARIJUANA

APPEARANCE BY GARY AYNESWORTH, MEDICAL MARIJUANA PATIENT, IN OPPOSITION TO ORDINANCE NO. 2004-112 RELATING TO MEDICAL MARIJUANA DISPENSARIES

Appearances made; no action taken.

**(9:15 A.M. "A") PUBLIC COMMENT PERIOD - SCHEDULED PUBLIC COMMENT:**

APPEARANCE BY SHERRILL AMEY REGARDING POSTED PEDESTRIAN CROSSING SIGNS, SANITATION AND STREET SWEEPING SERVICES, BUS STOPS, THREATS RECEIVED BY EDISON HIGH SCHOOL STUDENTS, AND OTHER VARIOUS ISSUES

Appearance made with Councilmember Sterling responding to Ms. Amey's comments and concerns and stating the she and staff would follow up on her concerns.

APPEARANCE BY JAMES MITCHELL, MEDICAL CANNABIS COOPERATIVE OF FRESNO, QUALIFIED PATIENT AND PRIMARY CARE GIVER FOR QUALIFIED MEDICAL MARIJUANA PATIENTS IN OPPOSITION TO ORDINANCE NO. 2004-112 RELATING TO MEDICAL MARIJUANA DISPENSARIES

Appearance made; no action taken.

APPEARANCE BY ATTORNEY RICHARD RUNCIE (AND REPRESENTATIVE OF MR. MITCHELL), IN OPPOSITION TO THE MEDICAL MARIJUANA DISPENSARIES ORDINANCE AND PREEMPTION OF THE LOCAL ORDINANCE BY THE BROADER STATE LAW

Appearance made; no action taken.

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**(2-A) BILL FOR INTRODUCTION ADDING SUBSECTION 25 TO SECTION 8-401 OF THE FRESNO MUNICIPAL CODE RELATING TO PROHIBITING SMOKING IN PARKS**

Assistant P & R Director Haynes gave a brief overview of the issue as contained in the staff report as submitted.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut, who spoke to the need for designated smoking areas; Danielle Mesta, Region One Youth Commission, 5015 E. Lewis, support for the ordinance; Marciano Gutierrez, Region One Youth Commission Advisor, 2033 Tulare, support; Gabriel Sanchez, Region One Youth Commission, 4615 E. Mono, support; Judi Plante, American Cancer Society volunteer and cancer survivor, 914 W. Floradora, support; Audrey Redmond, representing the American Cancer Society and cancer survivor, 5415 E. Hampton, support.

Acting President Perea stated this was a quality of life issue, this was a good ordinance and urged Council's support, and made a motion to introduce the ordinance, which motion was seconded by President Castillo and later amended.

Councilmember Duncan spoke in opposition stating the ordinance would not change anything and there was no intent to enforce it, questioned why chewing tobacco was now added, noted a state law was currently in place that already protected children from second

hand smoke, stated there would be no penalty if a violation occurs, **(3 - 0)** and stated a law should not be added that will not change anything and that restricts the right and use of a legal product.

**144-169**

**11/30/04**

Discussion ensued. Councilmember Sterling commended Acting President Perea on the issue and expressed her support. Relative to Councilmember Duncan's comment City Attorney Montoy clarifying there were penalties for violations and read the code section into the record. Councilmember Boyajian presented questions/comments relative to ability of parks staff to enforce the ordinance, his understanding that the impetus of the ordinance was to protect children and his concern with now hearing it will be a tool to fight crime, and if staff will be able to issue citations, with Mr. Haynes and Acting President Perea responding.

Councilmember Calhoun stated he was generally supportive of the ordinance but would only support it if a 1-year sunset clause was added stating that would force a review by Council in one year to determine if the ordinance was working or not. Acting President Perea accepted the sunset clause and added it to the motion. President Castillo stated there were kinks to be worked out anytime something comes about for the first time and spoke in support of the sunset clause and the opportunity it would give to see how the ordinance is working, and stated he had faith in the community and felt people would understand and comply with posted signs asking them to voluntarily refrain from smoking.

Ms. Montoy clarified since the addition was an amendment she would bring the ordinance back with the added sunset clause next week for introduction under the consent calendar.

On motion of Acting President Perea, seconded by President Castillo, duly carried, **RESOLVED**, a new ordinance with a one year sunset clause to be brought back in one week for introduction, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Castillo
Noes :	Duncan
Absent :	None

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**RECESS - 10:23 A.M. - 10:37 A.M.**

**(10:00 A.M.)** HEARING ON COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 81, FINAL TRACT MAP NO. 5258

**1. RESOLUTION NO. 2004-433 - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX**

**2. RESOLUTION NO. 2004-434 - CALLING A SPECIAL MAILED-BALLOT ELECTION**

**3. RESOLUTION NO. 2004-435 - DECLARING ELECTION RESULTS**

**4. BILL NO. B-126 - ORDINANCE NO. 12004-124 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2003-2004 AND FUTURE TAX YEARS**

President Castillo announced the time had arrived to consider the issue and opened the hearing.

Interim Public Works Director Kirn gave an overview of the issue as contained in the staff report as submitted and recommended approval.

Upon call, no one wished to be heard and President Castillo closed the hearing.

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, **RESOLVED**, the above entitled Resolution Nos. 2004-433, 2004-434 and 2004-435 hereby adopted, and the above entitled Bill No. B-126 adopted as Ordinance No. 2004-124, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

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**(10:05 A.M.)** HEARING ON COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 82, FINAL TRACT MAP NO.

5295

- 1. **RESOLUTION NO. 2004-436** - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX
- 2. **RESOLUTION NO. 2004-437** - CALLING A SPECIAL MAILED-BALLOT ELECTION
- 3. **RESOLUTION NO. 2004-438** - DECLARING ELECTION RESULTS
- 4. **BILL NO. B-127 - ORDINANCE NO. 2004-125** - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2003-2004 AND FUTURE TAX YEARS

144-170

11/30/04

President Castillo announced the time had arrived to consider the issue and opened the hearing.

Interim Public Works Director Kirn gave an overview of the issue as contained in the staff report as submitted and recommended approval.

Barbara Hunt, 2475 S. Walnut, expressed various concerns.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, **RESOLVED**, the above entitled Resolution Nos. 2004-436, 2004-437 and 2004-438 hereby adopted, and the above entitled Bill No. B-127 adopted as Ordinance No. 2004-125, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
Noes : None  
Absent : None

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**(10:10 A.M.)** HEARING ON COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO. 83, FINAL TRACT MAP NO. 5237

- 1. **RESOLUTION NO. 2004-439** - ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX
- 2. **RESOLUTION NO. 2004-440** - CALLING A SPECIAL MAILED-BALLOT ELECTION
- 3. **RESOLUTION NO. 2004-441** - DECLARING ELECTION RESULTS
- 4. **BILL NO. B-128 - ORDINANCE NO. 2004-126** - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2003-2004 AND FUTURE TAX YEARS

President Castillo announced the time had arrived to consider the issue and opened the hearing.

Interim Public Works Director Kirn gave an overview of the issue as contained in the staff report as submitted and recommended approval.

Barbara Hunt, 2475 S. Walnut, presented questions relative to the tax, the elections, and results, with President Castillo clarifying issues.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

On motion of President Castillo, seconded by Councilmember Dages, duly carried, **RESOLVED**, the above entitled Resolution Nos. 2004-439, 2004-440 and 2004-441 hereby adopted, and the above entitled Bill No. B-128 adopted as Ordinance No. 2004-126, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
Noes : None  
Absent : None

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**(10:15 A.M.)** HEARING ON COMMUNITY FACILITIES DISTRICT NO. 2, ANNEXATION NO.77, FINAL TRACT MAP NO. 5370

- 1. **RESOLUTION NO. 2004-442** ANNEXING TERRITORY AND AUTHORIZING THE LEVY OF A SPECIAL TAX
- 2. **RESOLUTION NO. 2004-443** - CALLING A SPECIAL MAILED-BALLOT ELECTION
- 3. **RESOLUTION NO. 2004-444** - DECLARING ELECTION RESULTS
- 4. **BILL NO. B-129 - ORDINANCE NO. 2004-127-** LEVYING A SPECIAL TA FOR PROPERTY TAX YEAR 2003-2004 AND FUTURE TAX YEARS

President Castillo announced the time had arrived to consider the issue and opened the hearing.

144-171

11/30/04

Interim Public Works Director Kirn gave an overview of the issue as contained in the staff report as submitted and recommended approval.

Barbara Hunt, 2475 S. Walnut, expressed various concerns.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

On motion of President Castillo, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution Nos. 2004-442, 2004-443 and 2004-444 hereby adopted, and the above entitled Bill No. B-129 adopted as Ordinance No. 2004-127, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
Noes : None  
Absent : None

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- (10:20 A.M.) HEARING ON REZONE APPLICATION NO. R-04-45 AND ENVIRONMENTAL FINDINGS, FILED BY VINCENT AND KLYTHIA PALMO, PROPERTY LOCATED ON THE NORTH SIDE OF W. MCKINLEY BETWEEN N. WOODSON AND STATE ROUTE 99 IN COUNCIL DISTRICT 3
- 1. CONSIDER AND ADOPT ENVIRONMENTAL ASSESSMENT NO. R-04-45, FINDING OF CONFORMITY TO THE 2025 FRESNO GENERAL PLAN MASTER EIR
  - 2. **BILL NO. B-130 - ORDINANCE NO. 2004-128** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM C-M TO THE M -I ZONE DISTRICT

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Rodriguez gave an overview of the issue as contained in the staff report and recommended approval.

Speaking in support of the issue were: Gary Giannetta, Project Engineer, and Barbara Hunt, 2475 S. Walnut.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Mr. Giannetta responded to questions of Councilmember Boyajian relative to what a concrete batch plant was, if the developer was going to beautify the area, why the project went through the Highway 99 Beautification Committee, and if this was a retail project. Councilmember Sterling spoke in support of the project and how it would benefit the area and bring in jobs, and made a motion to approve staff's recommendation. Planning & Development Director Yovino responded to questions and comments of Councilmember Calhoun relative to the project and if it had been thoroughly thought out, development along freeway 99, and if this project made sense for the area.

On motion of Councilmember Sterling, seconded by Councilmember Dages, duly carried, RESOLVED, the environmental finding for E.A. No. R-04-45, dated September 29, 2004, that the project proposal conforms to the provisions of the 2025 Fresno General Plan Master EIR hereby approved, and the above entitled Bill No. B-130 rezoning the subject property adopted as Ordinance No. 2004-128, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
Noes : None  
Absent : None

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**(10:30 A.M.)** HEARING ON PLAN AMENDMENT NO. A-04-04, RE ZONE APPLICATION NO. R-04-18, AND ENVIRONMENTAL FINDINGS, FILED BY CENTRAL VALLEY LAND DEVELOPMENT LLC, PROPERTY LOCATED ON THE SOUTH SIDE OF W. DAKOTA BETWEEN N. POLK AND N. HAYES IN COUNCIL DISTRICT 1

**1. CONSIDER AND ADOPT FINDING OF MITIGATED NEGATIVE DECLARATION FOR E.A. NO. A-04-04/R-04-18/T-5316**

**2. RESOLUTION NO. 2004-445** - AMENDING THE 2025 FRESNO GENERAL PLAN AND THE WEST AREA COMMUNITY PLAN

**3. BILL NO. B-131 - ORDINANCE NO. 2004-129** - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM COUNTY RR TO R-1/UGM

**144-172**

**11/30/04**

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Brock gave an overview of the issue as contained in the staff report as submitted and recommended approval.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut, who spoke to boundary issues and adverse impacts to the area with the project; Fran Doss, representing Tract 5316, Central Valley Land Development, who requested support and spoke to Caltrans and a fee; and Dave Valenzuela, 562 W. Celeste, support **(4 - 0)**.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Councilmember Boyajian spoke in opposition to the project citing the lack of a CEQA analysis and a master plan, stated there should be a moratorium on growth in the area, and spoke to adverse project impacts.

\*Visiting students from Powers-Ginsburg Elementary School were recognized and welcomed.

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the Mitigated Negative Declaration prepared for E.A. No. A-04-07/R-04-18/T-5316, dated October 12, 2004, hereby approved, the above entitled Resolution No. 2004-445 hereby adopted, and the above entitled Bill No. B-131 rezoning the subject property adopted as Ordinance No. 2004-129, by the following vote:

Ayes :	Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	Boyajian
Absent :	None

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**(10:45 A.M.)** HEARING TO CONSIDER THE "BOSTON VILLAGE" CONDOMINIUM CONVERSION APPLICATION AND VESTING TENTATIVE TRACT MAP NO. 5359, FILED BY WALTER MELTON, PROPERTY LOCATED ON THE NORTH SIDE OF W. HERNDON BETWEEN N. FRUIT AND N. WEST AVENUES IN COUNCIL DISTRICT 2

**1. CONSIDER AND ADOPT CATEGORICAL EXEMPTION FOR E.A. NO. R-5359**

**2. RESOLUTION NO. 2004-446** - APPROVING VESTING T.T. MAP NO. 5359 PROPOSING THE CREATION OF A ONE COMMON LOT CONDOMINIUM MAP AND THE CONVERSION OF THE BOSTON VILLAGE APARTMENT COMPLEX INTO A CONDOMINIUM PROJECT

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Bernal gave an overview of the issue as contained in the staff report as submitted and recommended approval.

Barbara Hunt, 2475 S. Walnut, spoke in opposition.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Councilmember Calhoun spoke in support stating this was a very nice development and a good move for the residents and Fresno, and made a motion to approve staff's recommendation.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the environmental finding of a Categorical Exemption for E.A. No. T-5359 issued October 7, 2004, hereby approved, and the above entitled Resolution No.

2004-446 approving the Condominium Conversion Application and Vesting Tentative Tract Map No. 5369/UGM, subject to compliance with the Conditions of Approval dated October 20, 2004, hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
 Noes : None  
 Absent : None

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**(11:00 A.M.) HEARING ON REZONE APPLICATION NO. R-04-265 AND ENVIRONMENTAL FINDINGS, FILED BY UNION COMMUNITY HOLDINGS, PROPERTY LOCATED ON THE WEST SIDE OF S. TEMPERANCE BETWEEN E. BUTLER AND E. KINGS CANYON ROAD IN COUNCIL DISTRICT 5**

**144-173**

**11/30/04**

**1. CONSIDER AND ADOPT E.A. NO. R-5294/R-04-25, FINDING OF CONFORMITY TO THE 2025 FRESNO GENERAL PLAN MASTER EIR**

**2. BILL NO. B-132 - ORDINANCE NO. 2004-130 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM AE-20/UGM TO R-1/UGM**

President Castillo announced the time had arrived to consider the issue and opened the hearing. Planner Braun gave an overview of the issue as contained in the staff report as submitted and recommended approval.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut, who spoke to the need to protect ag land; and James Marshall, 270 S. Temperance, adjacent property owner, who stated he supported the project but had road and traffic concerns and elaborated.

Upon call, no one else wished to be heard and President Castillo closed the hearing.

Councilmember Dages made a motion to approve staff's recommendation but expressed concern that needed infrastructure was not going in to keep up with the tremendous amount of growth in the southeast area. Councilmember Boyajian stated due to that he would not be supporting the project. Lengthy discussion ensued on the lack of infrastructure going in, if Council had the authority to place conditions on developers, need for traffic signals before areas get too dangerous, if there was anything Council could do this date, scheduling a future workshop to address all these issues and concerns, need for Council to act, and Council being policy-makers and having the authority to place conditions on developers at any time, with Chief Assistant City Attorney Sanchez and Planning & Development Director Yovino clarifying issues and responding to questions/comments throughout.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, **RESOLVED**, the environmental finding of E.A. No. R-04-25/T-5294, dated August 9, 2004, that the project proposal conforms to the provisions of the 2025 Fresno General Plan Master EIR hereby approved, and the above entitled Bill No. B-132 rezoning the subject property adopted as Ordinance No. 2004-130, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
 Noes : Boyajian  
 Absent : None

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**(3-B) DISCUSSION REGARDING HIRING DEPARTMENT DIRECTORS AND SENIOR EXECUTIVE STAFF - COUNCILMEMBER CALHOUN**

**1. RECEIVE PRESENTATION FROM CITY MANAGER EXPLAINING THE PROCESS AND RATIONALE FOR SELECTION OF THE PARKS DIRECTOR FOLLOWED BY COUNCIL DISCUSSION**

**2. DIRECT THE CITY ATTORNEY TO WORK WITH THE CITY MANAGER AND PERSONNEL STAFF AND RETURN TO COUNCIL WITH: (a) SURVEY INFORMATION AND ANALYSIS REGARDING OTHER CITIES' HIRING PROCESS FOR DEPARTMENT DIRECTORS AND SENIOR EXECUTIVE STAFF, AND (b) A DRAFT ORDINANCE THAT SETS PROCEDURES FOR THE RECRUITMENT AND HIRING OF DEPARTMENT DIRECTORS AND SENIOR EXECUTIVE STAFF**

With his memo to Council thoroughly explaining the issue and what information he was requesting, Councilmember Calhoun read his memo into the record. It was determined to break for lunch and continue with the city manager's presentation at 2:00 p.m.

**LUNCH RECESS - 11:54 A.M. - 2:02 P.M.**

City Manager Hobbs stated the most important decisions a city manager makes are the department head hires and he took great pride in the city's department head hire track record; **(5 - 0)** spoke to the process he has undertaken the past three years in hiring department heads; elaborated on the press conference that was held to announce the hiring of Mr. Cooper stating it was one of the most thorough and transparent press conferences he has used; spoke to the national search firm that was selected out of a group of six firms and the process Mathis & Associates undertook; explained the process used for the finalist interviews; elaborated on Mr. Cooper's experience, abilities and leadership; clarified he made this decision on Mr. Cooper based on (1) the process that was open and transparent and delivered three finalists to him, (2) the finalist interview itself, and (3) Mr. Cooper's references; and reiterated he felt the process was transparent and thorough and he saw this issue being about one or more council members taking exception to the decision he made and disagreeing with who he hired and not about the process, and added who he hired was his decision and his accountability and he accepted that accountability.

**144-174**

**11/30/04**

Extensive discussion ensued. Councilmember Dages stated he questioned the hiring of a police chief when the administration previously tried to place parks and recreation under the police department, and the firm that was hired to find qualified candidates as Mr. Cooper did not have parks and recreation experience and a degree; stated the messages the city manager was sending were (1) one does not really need airports experience to be an airports director and that parks & recreation directors should be looked at for the police chief position, and (2) "I know there are seven council members and I'm going to ignore them and do what I want to do and not take any of their advice or comments"; and stated parks and recreation was extremely important to Council, Council wanted someone who fully understands parks and the needs of the community, Council's wishes needed to be listened to as they come from their hearts, and Council wanted to be part of this important issue. Mr. Hobbs stated it was never was, or ever has been, his intent to ignore Council's feelings in this area; stated he welcomed input from all quarters in this process and he had to make the decision; stated he was discussing this matter as candidly as possible out of respect for Council's sensitivities and added this discussion was awkward, he was not comfortable, and he was concerned about the appropriateness of discussing a personnel matter publicly; and spoke to two other times when awkward conversations about appointments occurred at the dais that were also inappropriate and stated they were outstanding appointments and Council would see the same with Mr. Cooper.

President Castillo stated discussion needed to be focused on hiring rules and laws that have to be followed, if the city attorney has a responsibility to ensure that the city manager complies with those civil laws to avoid lawsuits, disregarding qualifications, and at what level does the city manager have the authority to pick and choose which laws to obey. City Attorney Montoy stated the city manager followed and did not violate any civil service laws and elaborated.

Acting President Perea stated his concern was that council members acted as liaisons between constituents and department heads and council needed to feel comfortable that departments heads know and understand the system and are able to remedy the problems that are given to them, and questioned if basic requirements relative to education and parks management experience were requirements or guidelines and how it is determined which requirements are more important than others, with Mr. Hobbs responding.

Councilmember Duncan stated he respectfully disagreed with some comments made, emphasized the Charter was clear and the city manager had the authority to hire anyone he wanted, noted past hires have been exceptional except for one and stated he was excited about this hire, stated if any member had a problem with the Charter they needed to try to change it, stated if Council changes the rules for hiring department heads and senior executive staff that those rules also needed to apply to Council hires as the city manager's hiring process was much more transparent than Council's process, and stated "if the process is not broken don't fix it" and asked Council to get excited about Mr. Cooper and thinking out of the box stating Mr. Cooper was bringing some unique skills and he felt Council will be very pleased.

Lengthy discussion continued. Councilmember Boyajian stated he thought Council instituted requirements for department heads five years ago and questioned what occurred, with Assistant City Manager Souza and Ms. Montoy clarifying job specs were updated and legislative action was not taken. Councilmember Boyajian questioned if Council could go further than that and began asking other questions relative to the experience and education of the other finalists, whereupon Ms. Montoy cautioned Council on this line of questioning stating there were limitations under the public records act. Councilmember Boyajian stated the process was flawed, the wrong message was being sent to employees by hiring someone from outside that did not meet the requirements, and stated he was insulted that the city manager selected a police officer when Council previously said they were opposed to that.

Councilmember Sterling concurred and stated her concern was this hire leads her to believe the administration is going in the direction of their past unsuccessful attempt to place parks and recreation under the police department; spoke to the RJJ and need to employ in our community; questioned if existing police officers with community service experience (and identified them by name) or qualified parks staff were considered for the position and if it was more prudent to select someone in-house; and stressed the importance of putting

our people to work, with Mr. Hobbs responding throughout.

Councilmember Calhoun noted the city manager did not address his questions as outlined in his memo **(6 - 0)**; stated he keeps hearing a lot of platitudes but nothing about parks & recreation experience or education, and a lot about youth and stressed parks & recreation was much more than youth and explained; noted the department was dramatically underfunded and questioned how the new director was going to deal with that issue; noted there were no internal candidates and asked what that said; questioned if the final three candidates were recommended by the search firm (with Mr. Hobbs and Mr. Souza responding affirmatively); expressed his strong concerns with the issue stating he was very disappointed with the process, stressed Council could always hold back funding for the position, and stated he did not want this to ever happen again and elaborated; and made a motion as outlined in #2 above, which motion was seconded and later acted upon. Upon request of Councilmember Duncan for clarification, Councilmember Calhoun stated procedures for recruitment and hiring would not affect the city council and the hiring of Council assistants as that was a separate issue and council assistants served at will. Councilmember Duncan senior executives also served at will and he felt it was hypocritical of Council to not place the new procedures on themselves.

144-175

11/30/04

Mr. Hobbs reiterated, with all due respect, that it was his opinion that Councilmember Calhoun was not taking exception to the process but was taking exception to his hire decision and the individual he appointed (with Councilmember Calhoun stating that was not true and President Castillo stating he also did not believe Councilmember Calhoun alluded to that); reiterated facts relative to the thorough process that took place and how this was an extremely awkward conversation to have; and stated the word will go out about the city's hiring practices and dissecting resumes and will make his job in recruiting people very difficult. Upon question of Councilmember Calhoun, Ms. Montoy stated the city manager had the right to weigh-in on this debate. Mr. Hobbs apologized for bringing other department heads' names into the conversation as a way of making his point.

President Castillo stated his concern was for current city employees as he felt them seeing the city manager circumventing the minimum qualifications to meet hiring needs would demoralize them; stressed certain minimum qualifications were necessary and needed to be met; stated no city police officer applied for this position because law enforcement experience was not part of the qualifications; spoke to the amount of money the city spent on Imagine 21 training to raise employee morale and stated all that is undone with an action such as this; concurred with the city manager that he is responsible for all of his actions but clarified Council is elected by citizens to represent their interest and the buck stops with the City Council; and encouraged employees to apply for any city position whether they qualify or not "as long as you have fire in the belly".

On motion of Councilmember Calhoun, seconded by Councilmember Boyajian, duly carried, **RESOLVED**, the city attorney directed to work with the city manager and personnel staff and return to Council with: (a) survey information and analysis regarding other cities' hiring process for department directors and senior executive staff, and (b) a draft ordinance that sets procedures for the recruitment and hiring of department directors and senior executive staff, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Castillo
Noes :	Duncan
Absent :	None

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**(2:00 P.M. #1) CONTESTED CONSENT CALENDAR:**

**(1-K) APPROVE EXTENSION OF GRANT WRITER PROGRAM AGREEMENT**

Acting President Perea stated he wanted this matter heard in conjunction with social service funding recommendations made by the Human Relations Commission in the next week or so and advised he has heard some dissatisfaction from some non-profits that the money could be used in a better way. A motion and second was made to continue the matter to be heard in conjunction the HRC recommendations for social service funding.

Speaking to the issue were: Denise Lanier, Deaf and Hard of Hearing Service Center, 5340 N. Fresno Street, who spoke in support of the grant writer program; and Barbara Hunt, 2475 S. Walnut.

Assistant P & R Director Haynes responded to questions of Councilmember Duncan relative to impact of a delay, if the contract funding was already allocated, people questioning the validity of numbers and how money received is validated, if the United Way is

required to report to the City, if staff has heard anything un-positive about the program, and grant writing workshops and participation and lack of participation by non-profits. Councilmember Duncan stated this was a very successful program and urged Council to reject the motion. Mr. Haynes responded to questions of Councilmember Dages relative to the non-profits who have benefitted from the training program with Councilmember Dages also urging action be taken this date to continue the program and training stating it is so vitally important to central, southwest and southeast Fresno.

Councilmember Sterling stated some members were getting away from the intent of the motion and acknowledged the United Way program was very successful but emphasized there were concerns from some of the smaller organizations that are not as high-profiled as others. Councilmember Boyajian questioned if a 1 or 2 week delay would be catastrophic (with Mr Haynes responding), and President Castillo stated he supported the motion.

On motion of Acting President Perea, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Item 1-K laid over to be heard in conjunction with the Human Relations Commission social service funding recommendations, by the following vote:

**144-176**

**11/30/04**

Ayes : Boyajian, Perea, Sterling, Castillo  
 Noes : Calhoun, Dages, Duncan  
 Absent : None

**(1-L) RESOLUTION NO. 2004-447 - 44<sup>TH</sup> AMENDMENT TO AAR 2004-209 APPROPRIATING \$4,086,300 THAT INCLUDES AN APPROVED INTER-AGENCY LOAN, CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK (I BANK) DEBT SERVICE, AND ROEDING BUSINESS PARK PHASE III PROJECT COSTS**

Councilmember Calhoun stated a lot of money was being moved around and he initially did not understand staff's report, advised the Controller has since explained the issue to him, and upon his request Finance Director/Controller Quinto publicly explained what would be accomplished by this action and responded to questions of President Castillo relative to additional funds not being added, if additional penalties/interest charges were incurred due to the lateness, and the delays that occurred and if they would happen again.

On motion of Councilmember Calhoun, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2004-447 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
 Noes : None  
 Absent : None

**(1-R) RESOLUTION NO. 2004-448 - APPROVING THE FINAL MAP OF TRACT NO. 5262, NORTHWEST CORNER OF E. BUTLER AND .S. PEACH AVENUES, AND ACCEPTING DEDICATED PUBLIC USES THEREIN; AND AUTHORIZE THE PUBLIC WORKS, PUBLIC UTILITIES AND PLANNING & DEVELOPMENT DIRECTORS TO EXECUTE NECESSARY DOCUMENTS**

Interim Transportation Director Benavides **(7 - 0)**, Interim Public Works Director Kim and Bill Walls, representing McMillin Homes, responded to questions/concerns of Councilmember Dages relative to whether Butler Avenue at the entrance to the subdivision could be gated to block traffic from going through the subdivision due to the congestion that will occur at the Peach/Butler 4-way stop sign intersection and when the olive trees would be re-planted in the median island.

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled Resolution No. 2004-448 hereby adopted; the Public Works Director authorized to execute the Subdivision Agreement and the Statement of Covenants Affecting Land Development for Landscape Maintenance; the Public Utilities Director authorized to execute the Statement of Covenants Affecting Land Development Providing Special Solid Waste Disposal Services for certain lots; and the Planning & Development Director authorized to execute the Statement of Covenants Affecting Land Development Deferring Certain Sewer Connection Charges, Water Connection Charges, Urban Growth Management Fees and Development Fees to the time of issuance of Certificate of Occupancy and Creation of Lien, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
 Noes : None  
 Absent : None

**(1-V) CONSIDER ZONING ORDINANCE TEXT AMENDMENT NO. TA-03-02**

**1. BILL NO. B-133 - INTRODUCTION OF BILL AMENDING THE FRESNO MUNICIPAL CODE RELATING TO SECOND DWELLINGS ON SINGLE FAMILY ZONED LOTS AND STREAMLINING THE PROCESS TO REFER SPECIAL PERMITS TO COUNCIL**

Councilmember Dages stated he was strongly opposed to having second dwellings in single-family neighborhoods and questioned who would monitor this and how the appeal process would work, with Planning & Development Director Yovino responding and clarifying issues. Councilmember Boyajian left the meeting at 3:52 p.m. and returned later. Councilmember Dages requested staff notify his office when permits are taken out for second dwellings in his district.

On motion of Councilmember Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Bill No. B-133 introduced before the City Council and laid over, by the following vote:

**144-177**

**11/30/04**

Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
 Noes : None  
 Absent : Boyajian

**(1-Y) BILL NO. B-134 - AMENDING SUBSECTION (b) OF SECTION 9-804 OF THE FRESNO MUNICIPAL CODE DESIGNATING VIOLATIONS OF THE FIRE CODE AND PUBLIC NUISANCES**

An unidentified staff member responded briefly to questions of Councilmember Dages relative to whether the fire department has made any arrangement with code enforcement to reimburse them for the extra workload, staffing, and if this will cause code enforcement to be overburdened.

On motion of Councilmember Dages, seconded by President Castillo, duly carried, RESOLVED, the above entitled Bill No. B-134 introduced before the Council and laid over, by the following vote:

Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
 Noes : None  
 Absent : Boyajian

**(1-Z) BILL NO. B-121 - ORDINANCE NO. 2004-131 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO CHARGES AND REIMBURSEMENTS RELATED TO TRAFFIC SIGNAL UGM FEES**

Councilmember Sterling stated she talked with public works staff and felt her concerns had been resolved and upon her request Interim Public Works Director Kirn advised what Councilmember Sterling's concerns were and clarified nothing was different here from what Council approved on November 9<sup>th</sup> and

On motion of Councilmember Sterling, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Bill No. B-121 adopted as Ordinance No. 2004-131, by the following vote:

Ayes : Calhoun, Dages, Sterling, Castillo  
 Noes : Duncan, Perea  
 Absent : \*Boyajian

**\*NOTE** - After approval of Item 1-W, Councilmember Boyajian advised he would have voted "NO" on 1-Z if he had been present.

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**(2-B) APPROVE AMENDMENT TO SECTION 3-1 (COMPENSATION) OF EXISTING AGREEMENT BETWEEN THE CITY AND**

# RENEE V. MAYNE, A SOLE PROPRIETORSHIP, FOR LABOR NEGOTIATION SERVICES

Acting Personnel Director Ruiz reviewed the issue as contained in the staff report as submitted and recommended approval. A motion and second was made to approve staff's recommendation. Councilmember Calhoun spoke to the history of the issue and to the need for professional staff in the personnel department, and stated he would support the issue but would not support another extension and explained. Mr. Ruiz and City Manager Hobbs responded to questions and comments of Councilmember Dages, Acting President Perea and President Castillo relative to the funding source, why the identified source was not included in the staff report, process for the transfer of funds, funding source for Mr. Ruiz' salary, why the contract was needed before changes occurred in the personnel department when professional employees were already employed, reason for the contract, if the intent for the contract was for swift negotiations, and need for Ms. Mayne to have a direct line to the city manager to get a response to something on the table without having to go through a number of people first.

On motion of Councilmember Sterling, seconded by Councilmember Duncan, duly carried, RESOLVED, the second amendment to the Agreement between the City of Fresno and Renee V. Mayne, entered into on March 1, 2004, and subsequently modified June 15, 2004, to increase the current contract amount by \$32,500 for professional services hereby approved, and the city manager or his designee authorized to execute the agreement on behalf of the City, by the following vote:

144-178

11/30/04

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
 Noes : None  
 Absent : None

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## **(1-W) BILL NO. B-135 - AMENDING THE FRESNO MUNICIPAL CODE REGARDING PARKING, STOPPING, STANDING AND ADHERENCE TO SIGNS AND CURB MARKINGS AT THE FRESNO YOSEMITE INTERNATIONAL AIRPORT**

Councilmember Boyajian advised his questions/concern had been addressed by staff and made a motion to approve.

On motion of Councilmember Boyajian, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Bill No. B-135 introduced before the City Council and laid over, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo  
 Noes : None  
 Absent : None

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Councilmember Boyajian noted he was absent for the vote on **Item 1-Z** and stated if he had been present he would have voted "NO".

## **RECESS - 4:16 P.M. - 4:24 P.M.**

## **(2:45 P.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY**

The City Council recessed and convened in joint session with the Redevelopment Agency at 4:24 p.m.

## **APPROVE AGENCY MINUTES OF NOVEMBER 9, 2004**

On motion of Councilmember Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the Agency minutes of November 9, 2004, approved as submitted.

("A") CONTINUED JOINT HEARING ON THE OLD ARMENIAN TOWN PROJECT, AREA BOUND BY "O" STREET, VENTURA STREET, "M" STREET AND FREEWAY 41, TO CONSIDER APPROVAL AND ADOPTION OF THE FOLLOWING

## DOCUMENTS:

1. **AGENCY RESOLUTION NO. 1655 - CERTIFYING EIR SCH #2003051046 FOR THE OLD ARMENIAN TOWN PROJECT**
2. **JOINT RESOLUTION NO. 2004-449/1656 - APPROVING THE MASTER DISPOSITION AND DEVELOPMENT AGREEMENT (DDA) AND RELATED SUMMARY REPORT FOR THE SALE AND DEVELOPMENT OF APPROXIMATELY 7.67 ACRES OF LAND FOR THE OLD ARMENIAN TOWN PROJECT**

Chair Boyajian announced the time had arrived to consider the issue and opened the hearing.

Interim Agency Director Murphey introduced principals and members of the Old Armenian Town (OAT) project team who would be making the presentation and who were present to answer any questions.

Dennis Frye, representing Old Armenian Town LLC, gave an overview of the developer's project; Cary McCloud, AC Martin Architects & Planners, gave an overview of the 10 acre plan, displaying renderings on the overhead to illustrate **(8 - 0)**; Brian Smith, the Agency's consultant from URS, gave an overview of the environmental impact report; RDA Planner/Senior Project Coordinator Yee and Richard English, Myra Franks Historic Consultants, gave an overview of the super-site and final receiver site selection process for the historic resources and the related actions to implement the process; Art Morgan, RDA FRC Director, gave an extensive overview of the agreement deal points and the reuse analysis; and Judge Jim Ardaiz gave an overview of the 5<sup>th</sup> District Court of Appeals project and its relationship to the OAT project. Ms. Murphey gave a brief summary on the master plan and project benefits and recommended approval.

Chair Boyajian opened public testimony.

**144-179**

**11/30/04**

Speaking to the issue were: Jeanette Jurkovich, 1130 W. Roberts, who spoke to the EIR, an alternate receiver site on Ventura and "M" Streets for the historic homes, and clarified issues relative to her letter to Council; Midge Barrett, 560 E. Portland, who spoke in support of the alternate receiver site, displaying renderings on the overhead to illustrate and submitting copies of same, on file in the office of the city clerk; Mabelle Selland, 1483 E. Portals, support for the alternate receiver site **(9 - 0)**; Ed Mergerdichian, 2668 W. Barstow, representing the Armenian Cultural Foundation, spoke to and in support of the project; Doug Vagim, 1034 N. Poplar, who expressed concern with the "L" Street location for mixed use stating the area was designed to be industrial; Barbara Hunt, 2475 S. Walnut, support for the project; and Jim Shekoyan, support for the project.

Upon call, no one else wished to be heard and Chair Boyajian closed the public hearing

Councilmember Sterling commended all involved for their work on and/or participation in the project, noted compromises were made to make the project fit and move forward, and stated this was a wonderful project and made a motion to approve staff's recommendation, which motion was seconded and acted upon after addition discussion.

Mr. Frye, Mr. Smith, Ms. Murphey and Mr. Yee responded to a request for response and/or to questions of Chair Boyajian and President Castillo relative to Mr. Vagim's comments, the EIR and overriding considerations, property tax revenues to be derived, the alternate receiver site, zoning for the site south of Freeway 41, why it is being recommended to move the historic homes in a planned industrial area, why the Ventura & "M" Street site was not desirable, the old Armenian Church facade, and cost for the cultural site. Councilmember Sterling spoke briefly to opportunities that will be available by moving all the historic buildings to one location.

On motion of Councilmember Sterling, seconded by Councilmember Duncan, duly carried, **RESOLVED**, the above entitled Agency Resolution No. 1655 hereby adopted, and the above entitled Joint Council/Agency Resolution No. 2004-449/1656 approving the agreement and authorizing (1) the Interim Executive Director, after the project site has been assembled and prepared, to convey the project site to the developer, subject to the purchase price, deed restrictions, and other terms contained in the Agreement, and subject to approval by the office of the city attorney, and (2) to execute the documents necessary for the conveyance including, without limitation, escrow instructions and deeds that may be necessary to finalize or carry out the intents and purposes of the Agency Board and City Council, hereby adopted, by the following vote:

Ayes :	Calhoun, Castillo, Dages, Duncan, Perea, Sterling, Boyajian
Noes :	None
Absent :	None



Chair Boyajian thanked staff and Gunner Andros for all their work on the project and adjourned the joint meeting at 6:02 p.m.

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The City Council reconvened in regular session at 6:03 p.m.

**RECESS - 6:03 P.M. - 6:08 P.M.**

**(3:00 P.M.)** CONSIDERATION OF PLANNING COMMISSION DECISION ON PLAN AMENDMENT NO. A-03-17 AND RELATED ENVIRONMENTAL FINDING - ROOSEVELT COMMUNITY PLAN AMENDMENT RELATING TO THE 5 PERCENT OPEN SPACE REQUIREMENT (PROPERTY LOCATED IN COUNCIL DISTRICTS 3, 4, 5 & 7)

**1. RESOLUTION NO. 2004-450** - AMENDING THE ROOSEVELT COMMUNITY PLAN - PLAN AMENDMENT APPLICATION NO. A-03-17, **AS AMENDED**, *ADDING LANGUAGE REQUIRING A PARK LOCATION AND MONIES TO BE IDENTIFIED ANYTIME A TENTATIVE TRACT MAP IS APPROVED, ALONG WITH A PLAN AND TIME FRAME FOR EXPENDITURE OF THOSE FUNDS*

Planner Brock gave an extensive overview of the issue, all as contained in the staff report as submitted **(10 - 0)**.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut, who spoke to boundary issues; Sue Williams, Sunnyside Property Owners Association, who spoke to the goals and policies of the general plan and in opposition to the plan amendment; and Karen Musson, 1771 S. Waverly, Director on the Sunnyside Property Owners' Association Board and member of the Roosevelt Implementation Committee, opposed.

**144-180**

**11/30/04**

Councilmember Dages spoke to the history of the issue, to his support for the plan amendment and reasons therefor, stated he was aware of the Sunnyside Property Owners' Association's opposition but he felt this was needed and would be right for the affected areas, and made a motion to approve staff's recommendation, which motion was seconded and acted upon after further discussion.

Planning & Development Director Yovino and Chief Assistant City Attorney Sanchez clarified issues and/or responded to questions and concerns of President Castillo relative to collection of fees and cost for land skyrocketing at the time of purchase since city dollars would now be at issue, if areas can be designated park areas in the general plan, how the city will know in advance that a property owner will be willing to sell property to the city without knowing it will be developed, the 1-1/4 mile radius and size of parks, the fee option not being automatic, how to avoid leap frog development with \$50,000 sitting in a fund for 15 years, if there will be an opportunity to transfer funds from one park area to another as a loan, concern with the plan amendment allowing people to get away from building parks, and need to stipulate what is expected of developers. At this point President Castillo requested language be added to the amendment requiring a park location and monies to be identified anytime a tentative tract map is approved, along with a plan and time frame for expenditure of those funds, which language was accepted by the motion-makers.

Ms. Williams and Mr. Yovino responded to questions of Councilmember Boyajian and President Castillo relative to why the Sunnyside Property Owners' Association was opposed to the amendment and if the added language would address concerns, and if park space is planned for in the general plan.

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, **RESOLVED**, the above entitled Resolution No. 2004-450 hereby adopted, **as amended**, adding language requiring a park location and monies to be identified anytime a tentative tract map is approved, along with a plan and time frame for expenditure of those funds, by the following vote:

Ayes :	Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	Boyajian
Absent :	None

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**(3:15 P.M.)** HEARING ON UPDATE OF DRAINAGE FEES AS PROPOSED BY THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT (FMFCD)

- 1. RESOLUTION NO. 2004-451 - AMENDING THE STORM DRAINAGE AND FLOOD CONTROL MASTER PLAN AND AMENDING THE DRAINAGE FEES AND COSTS FOR EACH LOCAL DRAINAGE AREA FOR ALL DEVELOPMENT WITHIN THE JOINT AREA OF THE CITY OF FRESNO AND THE FMFCD**
- 2. RESOLUTION NO. 2004-452 - 426<sup>TH</sup> AMENDMENT TO MFS RES. 80-420 UPDATING DRAINAGE FEES FOR THE FMFCD**

President Castillo announced the time had arrived to consider the issue and opened the hearing. Councilmember Duncan briefly left the meeting at 6:48 p.m.

Interim Public Works Director Kirn gave an overview of the issue as contained in the staff report as submitted, noted minor modifications were made to the resolutions which were submitted to Council, and recommended approval.

Upon call, no one wished to be heard and President Castillo closed the public hearing.

On motion of Councilmember Boyajian, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution Nos. 2004-451 and 2004-452 hereby adopted, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Castillo
Noes :	None
Absent :	Duncan

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**(3:30 P.M.) CONSIDER AND APPROVE ISSUES REGARDING CONSTRUCTION OF VARIOUS BUILDINGS AT THE FRESNO/CLOVIS REGIONAL WASTEWATER RECLAMATION FACILITY (RWRF)**

**144-181**

**11/30/04**

- 1. HEARING ON REQUEST FROM LEWIS C. NELSON AND SONS, INC., FOR SUBSTITUTION OF SUBCONTRACTOR**
- 2. RESOLUTION NO. 2004-453 - 40<sup>TH</sup> AMENDMENT TO AAR 2004-209 APPROPRIATING \$1,370,000 TO FUND THE CONSTRUCTION OF ADMINISTRATION AND MAINTENANCE SHOPS/WAREHOUSE BUILDINGS AT THE RWRF**
- 3. AWARD A CONTRACT IN THE AMOUNT OF \$8,070,000 FOR THE BASE BID TO LEWIS C. NELSON AND SONS, INC., OF SELMA, CA FOR THE CONSTRUCTION PROJECT**

Councilmember Duncan returned to the meeting at 6:49 p.m. Purchasing Manager Smith gave an overview of the issue as contained in the staff report as submitted.

Barbara Hunt, 2475 S. Walnut, spoke in opposition.

On motion of Councilmember Duncan, seconded by Councilmember Dages, duly carried, RESOLVED, the request from Lewis C. Nelson and Sons, Inc., for substitution of a subcontractor hereby approved, the above entitled Resolution No. 2004-453 hereby adopted, and a contract in the amount of \$8,070,000 awarded to Lewis C. Nelson and Sons, Inc., for construction of administration and maintenance shops/warehouse buildings at the Fresno Clovis Regional Wastewater Reclamation Facility, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Duncan, Perea, Sterling, Castillo
Noes :	None
Absent :	None

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**(2-C) DIRECTION REGARDING SELECTION PROCESS FOR THE CITY'S APPOINTMENTS TO THE BOARD OF DIRECTORS FOR THE NON-PROFIT CORPORATION TO OPERATE CHAFFEE ZOOLOGICAL GARDENS**

Assistant City Manager Souza gave an overview of the issue and recommended the three City appointments be made by the Mayor, with approval by the Council, noting that was the same method used for appointments to other major City Boards and Commissions and for members of the Public Safety Commission. Councilmember Duncan spoke in support of the recommendation and questioned if Council would be able to provide input on the recommendations, what the process would be for establishing the recommendations, and if there would be an option to replace a recommended individual if a Council majority disagreed with it, with Mr. Souza responding. Councilmember Duncan stated politics would be kept out with this process and made a motion to approve, which

motion was seconded by Councilmember Calhoun.

Councilmember Boyajian spoke in opposition stating Council should have the ability to appoint the members as they were more community-based. Councilmember Dages questioned if the appointees would have to live within the city limits and requested the web site be changed to indicate applications do not have to go to all seven council members, with Mr. Souza stating the city residency requirement could be added. Mr. Souza responded to questions/concerns of Acting President Perea relative to whether the appointments would staggered, if the City would be able to continue to make appointments once terms terminate or if the non-profit would, **(11 - 0)** and concern with the City not having a say on the zoo after city appointments expire. Acting President Perea stated he could not support the motion as after three years the City will lose representation on the Board, in addition stated he also felt Council should have more of a say than just confirming a recommendation, and expressed concern that applications were received before the press release went out and questioned if some people had an inside track. Councilmember Sterling expressed her concern that the word "slate" came up and stated it made her question if everything had already been decided, if Council was totally relinquishing their powers, and if this was just going through the formalities, and also requested an elected official not be appointed to the Board as they would not be representative of the community, with Mr. Souza responding throughout.

City Attorney Montoy noted the issue of the three appointments was a Council policy call, relative to the permanence of the appointments clarified it was contemplated during the ballot process the City would be appointing the founding members and then the non-profit would be a private, self-sustaining, non-profit organization, and stated where the City's safeguards and interest would be protected would be in the agreement that the City will have with the new non-profit and approve. Relative to the alleged "slate" Mr. Souza stated there was no doubt there were people out there who think the Mayor has already picked a "slate", and stated people talk at will and that can not be controlled and assured Council there was no slate being proposed and added even if it were there was still an approval process by Council and the Mayor could not independently appoint the positions, just as he can not with the planning commission, civil service board, retirement boards, and the public safety commission. Upon question of Councilmember Dages, Ms. Montoy confirmed Council can reject any or all of the Mayor's recommendations and once initial appointments are made the City, County and Zoological Society will not have a continued say in the appointments upon expiration as that will be dealt with in the articles of incorporation/by-laws. Councilmember Boyajian stated Council had the ability to appoint the members themselves which would make it much easier.

**144-182**

**11/30/04**

A motion of Councilmember Duncan, seconded by Councilmember Calhoun, to approve staff's recommendation that the three (3) appointments to the Board of Directors of the Non-Profit Corporation to operate Chaffee Zoological Gardens be made by the Mayor, with approval by the City Council, failed, by the following vote:

Ayes :	Calhoun, Dages, Duncan
Noes :	Boyajian, Perea, Sterling, Castillo
Absent :	None

Councilmember Boyajian made a motion calling for the City Council to make all three appointments, which motion was seconded by Councilmember Sterling. Mr. Souza stated, if this was going to be Council's direction, that there be a consistency with the Blue Ribbon Commission and requested Council consider a 2 and 1 situation wherein the Council would appoint two and the Mayor one, which was accepted by Councilmember Boyajian and seconded by President Castillo. Councilmember Calhoun stated he was very disappointed and this was a nightmare, questioned if Council realized what they were getting into noting tons of people would be applying and questioned how all seven members were going to agree on two, and requested action be delayed one week so Council can rethink this. Councilmember Sterling pointed out Council appointed a great Blue Ribbon Commission, got through Measure Z, and has come this far, and stated the zoo was the primary focus and she felt Council would be reasonable and do the right thing. Councilmember Dages questioned who would interview the applicants, with Councilmembers Boyajian and Sterling stating they would. Councilmember Dages re-emphasized Council still had the final decision no matter who makes the recommendations and urged Council to let the administration do their work and for Council to set policy.

On motion of Councilmember Boyajian, seconded by President Castillo, duly carried, **RESOLVED**, of the three (3) appointments to the Board of Directors of the Non-Profit Corporation to operate Chaffee Zoological Gardens, two (2) appointments are to be made by the City Council and one (1) appointment to be made by the Mayor, by the following vote:

Ayes :	Boyajian, Perea, Sterling, Castillo
Noes :	Calhoun, Dages, Duncan
Absent :	None

Councilmember Duncan left at 7:22 p.m. and was absent for the remainder of the meeting.

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**(3-C) RECEIVE INFORMATION FROM FINANCE STAFF REGARDING CITY LOAN COLLECTION PROGRAM FOLLOWED BY COUNCIL DISCUSSION AND DIRECTION - COUNCILMEMBER CALHOUN**

Councilmember Calhoun briefly reviewed the background of the issue, advised he requested and received information on uncollected debt from the Controller and it was attached to his memo, read his memo into the record outlining the issue, and stated collecting debt should be a priority, this was a very important issue, and he felt an expanded commitment to loan collection activities was needed.

Finance Director/Controller Quinto gave an overview of the city's pilot collection program and what the collected funds are used for, spoke in support of a fully funded/staffed collection unit, advised of funding options, and stated she could bring this back as part of the mid-year budget review in January along with program specifics and funding options, or she could include this in next year's budget if that is Council's desire. Upon question of Councilmember Calhoun, Ms. Quinto stated billing departments for services was another possible financing option. Councilmember Calhoun stated more specifics on a model program were needed and made the following motion.

On motion of Councilmember Calhoun, seconded by Councilmember Boyajian, duly carried, RESOLVED, staff directed to come back at mid year budget review, or at their convenience, with specifics on a City loan collection program, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Castillo
Noes :	None
Absent :	Duncan

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**(3-D) DIRECT THE CITY ATTORNEY TO AMEND THE MOBILE VENDOR ORDINANCE - ACTING PRESIDENT PEREA AND COUNCILMEMBER DAGES**

**144-183**

**11/30/04**

Acting President Perea clarified his intent was to make this an emergency ordinance to be brought back in one week, explained the basic issue was that roadside vendors needed to be regulated and cited the problems encountered at Christmas Tree Lane and other events, spoke to Fresno County's regulations and enforcement, and made a motion to direct the city attorney to return in one week with an emergency amended mobile vendor ordinance giving event organizers the authority to allow mobile vendors at their events. Acting President Perea presented questions and discussion ensued on Fresno County's regulations, the City's laws, problems and disruptions caused by vendors, lack of health and safety findings to support an emergency ordinance, if the City can give organizations the authority to say "yea" or "nay" on roadside vendors, the police department already stating an officer would be present at Christmas Tree Lane, consulting with the police chief to have a police officer or reserve officer present at specified events, need for a officer at Christmas Tree Lane for the duration of the event and not just the first night, the current city ordinance already containing language that addresses these concerns, cart pushers being more of the problem than the large lunch trucks, problems encountered on Huntington Boulevard and schools with cart pushers, and violations and city staff (code enforcement and police) giving incorrect information on the code, with City Attorney Montoy and City Manager Hobbs responding throughout. Ms. Montoy stated her office would write an opinion on what city staff/police officers can enforce and she would also work on the event issue.

Acting President Perea amended his motion to direct the city attorney to return with an amended mobile vendor ordinance giving organizations the authority to allow or not allow mobile vendors at their events, which motion was seconded by Councilmember Dages. Councilmember Calhoun stated he respectfully disagreed with the motion, stated it was premature, noted the city attorney and city manager have heard the issue and they could spend time looking into it but an ordinance was not needed, questioned just how serious the problem was with affected homeowners stating he has not heard or seen this in the paper as a major issue, stated mobile vendors were present at the Veteran's Parade and **(12 - 0)** everyone seemed to be happy about them, and requested Council rethink this process. Acting President Perea stated he appreciated the concern but he wanted organizations to have the right to limit mobile vendors or not.

Gloria Torrez spoke in opposition to the issue, to the rights of mobile vendors, and expressed strong concern stating this was discrimination.

Ms. Montoy stated she would look into the permit issue for Christmas Tree Lane and other events, and Mr. Hobbs stated he would wait for clarification from Ms. Montoy, advised the City would respond on a complaint basis, and requested Council let him know where coverage was needed and he would try to get enforcement over there.

On motion of Acting President Perea, seconded by Councilmember Dages, duly carried, RESOLVED, the city attorney directed to return with an amended Mobile Vendor Ordinance giving organizations the authority to allow mobile vendors at events, by the following vote:

Ayes : Boyajian, Dages, Perea, Sterling, Castillo  
 Noes : Calhoun  
 Absent : Duncan

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**(2-D) REJECT ALL BIDS FOR DICKEY PLAYGROUND - YOUTH DEVELOPMENT CENTER**

Purchasing Manager Smith gave an overview of the issue as contained in the staff report as submitted.

Councilmember Sterling advised the City was successful in getting an extension without the loss of grant funds which would allow the time needed to redesign the project and rebid it, commended city staff for all their work to get the project to where it was at, and stated this would be a quality project and made a motion to approve staff's recommendation. Brief discussion ensued on bids exceeding the estimate, the problem with the architect, the lawsuit, and need to talk and get issues resolved, with Assistant Capital Projects Manager Wood and City Attorney responding.

On motion of Councilmember Sterling, seconded by Councilmember Boyajian, duly carried, RESOLVED, the two bids received for Dickey Playground - Youth Development Center hereby rejected because they substantially exceed the funds available for the project, by the following vote:

Ayes : Boyajian, Dages, Perea, Sterling, Castillo  
 Noes : Calhoun  
 Absent : Duncan

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144-184

11/30/04

**(2:00 P.M. #2) CLOSED SESSION:**

**(A) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAMES:**

1. SAMUEL L. WEINER V. GILLIG CORPORATION LIFT-U-INC., ET AL.
2. CITY OF FRESNO V. U.S. BUREAU OF RECLAMATION, CIV NO. F-03-5359 OWW SMM

**(B) CONFERENCE WITH REAL PROPERTY NEGOTIATOR - PROPERTY: PARCELS AT 800 AND 880 "M" STREET - NEGOTIATING PARTIES: ANDREW SOUZA AND DANIEL HOBBS AND OPHELIA FAMILY TRUST - UNDER NEGOTIATION: PRICE AND TERMS OF PAYMENT FOR PURCHASE OR LEASE OF PROPERTY**

The City Council met in closed session in Room 2125 at the hour of 8:05 p.m. to consider the above issues and adjourned thereafter.

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**ADJOURNMENT**

There being no further business to bring before the Council, the hour of 8:30 p.m. having arrived and hearing no objections, President Castillo declared the meeting adjourned.

**Approved** on the \_\_\_\_7th\_\_\_\_ day of \_\_\_\_December\_\_\_\_, 2004.

\_\_\_\_\_/s/\_\_\_\_\_  
Brad Castillo, Council President

ATTEST:\_\_\_\_\_/s/\_\_\_\_\_  
Yolanda Salazar, Assistant City Clerk

